

January 3, 2007

CONTACT/ MISC.

Dionna O. Parker
2-E Riverlands Dr.
Newport News, VA 23605
(757) 223-5499

Or

1021 31st St.
Newport News, VA 23607
(757) 246-7200

CORRESPONDENCE WITH USPTO

Provisional Application No. 60/423,425 File Date 11/04/2002

Utility Patent Application No. 10/693,385 File Date 10/24/2003

Disclosure Document No. 540795 File Date 10/24/2003

Publication No. US-2004-0135686-A1 Date 7/15/2004

Request Withdrawal of Abandonment w/ Office of Petitions File Date 5/8/2006

Petition Office of Enrollment & Discipline OED File No. C2006-127 File Date 7/18/2006

RECEIVED

JAN 10 2007

Technology Center 2600

January 3, 2007

Board of Patent Appeals and Interferences (BPAI)
United States Patent and Trademark Office (USPTO)
PO Box 1450
Alexandria, VA 22313-1450
(571) 272-9797

RE : Request to revive Utility Patent Application 10/693,385 due to misrepresentation and possible attempt of infringement.

Dear Board of Patent Appeals and Interferences:

I, Dionna O. Parker, respectfully submit this written appeal with supporting documents to dispute that Mr. Andrew J. James Sr. of USPTO of Technology Center 2600, abused his position acting as a Patent Agent on behalf of Utility Patent Application 10/693,385 thus leading to its abandonment and possible attempts of infringement.

At the start of the utility patent application process (2003), I called the USPTO and spoke with Mr. Andrew J. James Sr. who led me to believe he was an USPTO Patent Agent. Mr. James Sr. forwarded by mail several USPTO booklets on patents and trademarks, patent application, and a copy of a patent to follow. Due to his part time status at the USPTO, I was told by Mr. James Sr. for utility patent application 10/693,385 and all paperwork concerning it to be routed to 9105 Wellington Place, Lanham, MD 20706. {ref. pg. 1} I also was instructed to place his name and Attorney Docket# 39576 on a specific part of said patent application. Unknowingly at the time that such actions are not bonafide and is inconsistent based on his position with the USPTO regulations. On numerous occasions mail was sent to Mr. James Sr. to the above address stated in Lanham, MD via US Postal service. Due to the direct correspondence with Mr. James Sr. it is evident that it jeopardizes the ability to trace records of correspondence with the USPTO and myself.

In September 2005, after receiving a letter of Office Action Summary {ref. pgs. 9-14} I spoke with Examiner Son M. Tang to get clarification of the conflicting Office Action Summary. Due to the language barrier between Mr. Tang and I, I then contacted Mr. James Sr. since he had previously acknowledged his authority as an authentic USPTO Patent Agent on behalf of patent application 10/693,385. I explained to Mr. James Sr. my concern of the Office Action Summary and also the language barrier I had with Mr. Tang. Mr. James Sr. said he would have a meeting with Mr. Tang and contact me within a month. Mr. James Sr. failed to follow up contact. I proceeded to call him several times even at an alternate number given (301) 577-5784. Throughout the course of the next few months still trying to remedy this dilemma, I notice that I was getting the run around.

Finally I spoke with Mr. James Sr. after I received the Notice of Abandonment {ref. pgs. 18}. He then ask me to forward the Office Action Summary, references cited and documents to him at the Lanham, MD address and he would call me back. More time passed and at this point my assumptions of Mr. James Sr.'s credible work ethics dwindled.

Patent Application 10/693,385

Discrepancies:

Take notice of the claims in the references cited mailed from the USPTO of Art Unit 2632 {ref. pgs. 10-17}, it tallies with those of Utility Patent Application 10/693,385 indicating possible infringement. The forwarded claims by Art Unit 2632 is conflicting and the information it ask concerning patent application 10/693,385 is contradicting. (If there is a patent for such then why am I asked to further elaborate?)

Also on the Notice of Abandonment it shows that the Office Summary Action with references cited was mailed on "08 September 2005" however if you look at the claims of the references cited forwarded by Art Unit 2632 {ref. pgs. 16+17} the date printed along the bottom of both pages are dated "9/28/2005". That is very conflicting and it's then I begin to question the work ethics of Art Unit 2632.

Case continues:

Now this tedious process has turned into turmoil. Still attempting to revive and forced to passionately protect patent application 10/693,385 I contacted the USPTO Customer Service. (Reference call #1-35853642 and #1-36099892). On 4/28/2006 approximately 1:45 pm Mr. James Sr. called me from the USPTO and I expressed my dissatisfaction and our need to no longer correspond.

On 5/2006, I wrote the Office of Petitions requesting to respectfully revive abandoned application 10/693,385 with supporting documents. I received a **dismissal** response to withdraw the abandonment; however, this is when I discovered Mr. James Sr. status at the USPTO and outside the USPTO. {ref. pgs. 19+20}

On 7/6/06 I submitted a grievance to the Office of Enrollment and Discipline "OED" with supporting documents against Mr. James Sr. thus launching an investigation {ref. pgs. 21+22}. As of date I understand that the investigation is still underway and have been advise that it is strictly confidential.

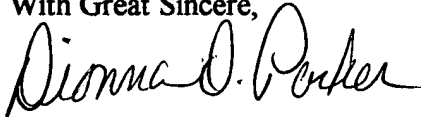
Patent Application 10/693,385

Closing Statement

Still continuing this journey submitting a written appeal to BPAI. When it's all said and done, the fact of the matter remains that I am a law abiding, honest U.S. citizen, whom served Jury Duty, and is an Armed Forces Veteran. My integrity is priceless. I have never asked for any favors or special treatment nor have I made any commitments, agreements (verbal or non-verbal) or deals with anyone on the personal or business perspective pertaining to Utility Patent Application 10/693,385. I solely am the inventor and author of patent application 10/693,385.

I have no and have never had a personal relationship with Mr. Andrew J. James Sr. or have ever met him or anyone else concerning USPTO. Reluctantly, I know that Mr. Andrew J. James Sr. was not honest in the role he displayed in handling Utility Patent Application 10/693,385. He had no right imposing as an USPTO Patent Agent aiding in the abandonment and possible attempts of infringement. I rightfully ask that Utility Patent Application 10/693,385 be revived within your authority according to the merits of the United States Patent and Trademark Office so that justice may prevail. Thank you for your valued time and unbiased, notable review during this proceeding.

With Great Sincere,

A handwritten signature in cursive script, reading "Dionna O. Parker". The signature is written in black ink and is positioned below the text "With Great Sincere,".

Dionna O. Parker

Applicant

Utility Patent Application 10/693,385

January 3, 2007

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CORRESPONDENCE WITH USPTO

Provisional Application No. 60/423,425 File Date 11/04/2002

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Petition Office of Enrollment & Discipline OED File No. C2006-127 File Date 7/18/2006

REFERENCE
PAGE 1

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Andrew James Sr
9105 WELLINGTON PL
LANHAM, MD
20706

2. Article Number

(Transfer from service label)

PS Form 3811, August 2001

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
if YES, enter delivery address below: ☐ No

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4. Restricted Delivery? (Extra Fee) ☐ Yes

Domestic Return Receipt

2ACPRI-03-P-4081

U.S. Postal Service

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(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

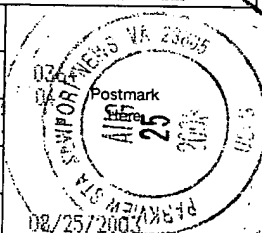
Postage \$0.40

Certified Fee \$2.30

Return Receipt Fee (Endorsement Required) \$1.75

Restricted Delivery Fee (Endorsement Required) \$0.00

Total Postage & Fees \$4.65



Sent to Andrew James Sr.

Street, Apt. No., or PO Box No. 9105 WELLINGTON PL.

City, State, ZIP+4 LANHAM, MD 20706

PS Form 3800, April 2002

See Reverse for Instructions

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

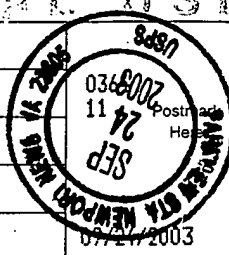
Postage \$1.06

Certified Fee \$2.30

Return Receipt Fee (Endorsement Required) \$1.75

Restricted Delivery Fee (Endorsement Required) \$0.00

Total Postage & Fees \$5.11



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City, State, ZIP+4 LANHAM, MD 20706

PS Form 3800, April 2002

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SEE BACK OF THIS RECEIPT FOR IMPORTANT CLAIM INFORMATION

Office Action Summary	Application No. 10/693,385	Applicant(s) PARKER, DIONNA O.	
	Examiner Son M. Tang	Art Unit 2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Art Unit: 2632

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- claim 3, “a reactor to activity”.
- claim 14, “set at the capacity of human activation”.
- claim 16, all the features from (a) to (p) that claimed.

Claim Objections

2. Claims 15 and 16 are objected to because of the following informalities: The claimed of method claims have to be in an -ing- form, i.e. “accessing” or “transmitting visual and audio...”
Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 16-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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It is unclear that how the system being able to corporate and to connect with all the limitations as claimed, for example:

In claim 16,

- step (i) "to start specific vehicle, lock and unlock door?"
- step (l) "deactivation in case of lost or theft?"
- step (m) "page notification if misplace?"
- step (p) "for pet owners additional timed set sensors for pet doors?"

In claim 17:

It is unclear of limitations such as "if said property is without a computer then the camera, sensor, doorbell, and intercom can be linked directly to a phone line", is the phone line is the same as a computer? And the word "may" in line 6 is being indefinite, since it is not particular point out and distinctly claim the subject matter, "may" can be means as have or have not.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 17 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

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7. Claims 2-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In all the claims above, after "wherein" the subjective is missing which uses to connect with the limitations, for example: in claim 2 "wherein includes the motion sensor." What is the limitation that includes the motion sensor? And claim 10, "wherein stores data" it is unclear of what is the limitation uses to store the data? Applicant please defines more in all the claims above.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al. [US 6,778,084].

Regarding claims 1-15: Chang et al. disclose an apparatus for first hand surveillance with the capability of audio and visual communication specifically when emerged off a property, that comprises all the functions and limitation that claimed, that includes motion sensor 220, camera 180, reactor to activity 200, microphone and speaker (col. 5, lines 30-31 and

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col. 6, lines 1-14), computer 280, an audiovisual remote 160 [as shown in Fig. 1-2 and col. 3, lines 56-67, col. 4, lines 24-66 and col. 5, lines 20-54].

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. [US 6,778,084].

Regarding claim 16: Chang et al. disclose a surveillance audio visual remote 160 that able to receiving the notification alarm signal, and sending command signal to camera to function as control volume, zoom, pan, tilt, focus and on/off [see col. 5, lines 18-40], Chang et al. does not specifically disclose that the audio visual remote is capable to do the rest of the list of functions and features as claimed, however, as long as the remote controller 160 is being able to control and do more than one functions for the system. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention to be able to employ more additional features into the remote controller, for more convenience.

Regarding claim 17: Chang et al. disclose an apparatus for first hand surveillance comprises a computer 280 and communication device 300 [see Fig. 1] and the apparatus is capable to record the incident into the master terminal box 240, for later playback [see col. 5,

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lines 41-54], Chang et al. does not specifically mention that recording device is a VCR, DVD, CD burner. Since, VCR, DVD, and CD burner are well known as the recording devices, therefore, it is obvious of one having ordinary skill in the art at the time the invention was made to use any appropriate known type of recording device in the system, including VCR, DVD, and CD as claimed.

Conclusion

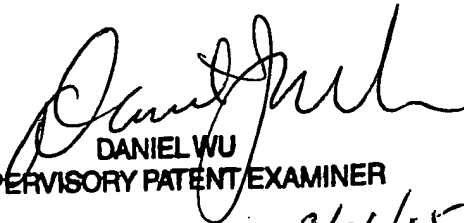
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vaio [US 6,271,752], Yamanaka [US 4,651,143], Rigmaiden [US 6,525,653], Toyoshima [US 5,229,850], Turner [US 6,002,326] and Langfahl et al. [US 6,741,165].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son M. Tang whose telephone number is (571)272-2962. The examiner can normally be reached on 4/9 First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571)272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son Tang


DANIEL WU
SUPERVISORY PATENT EXAMINER
9/06/05

Notice of References Cited

Application/Control No.

10/693,385

Applicant(s)/Patent Under
Reexamination
PARKER, DIONNA O.

Examiner

Son M. Tang

Art Unit

2632

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
✓	A	US-6,741,165	05-2004	Langfahl et al.	340/426.1
	B	US-5,229,850	07-1993	Toyoshima, Keiichi	348/153
	C	US-6,002,326	12-1999	Turner, Valerie Jean	340/426.1
✓	D	US-6,778,084	08-2004	Chang et al.	340/541
	E	US-6,525,653	02-2003	Rigmaiden, Annie	340/426.1
	F	US-4,651,143	03-1987	Yamanaka, Torao	340/691.1
	G	US-6,271,752	08-2001	Vaios, Christos I.	340/541
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

REFERENCE PAGE

Claims

16

What is claimed is:

1. A system, comprising:

an imaging device, the imaging device having a control unit; and

a server coupled with the imaging device to:

receive an image having a code,

decode the code,

determine using the decoded code one of the following: a first response in accordance with a first situation, a second response in accordance with a second situation, and a third response in accordance with a third situation,

store the image on a web site, and

transmit a message to a communication device.

2. The system of claim 1, wherein the first response comprises an emergency response, the second response comprises a security response, and the third response comprises a failsafe response.

3. The system of claim 1, wherein the communication device comprises at least one of the following: a telephone, a pager, and a computer.

4. The system of claim 1, wherein the server is further to:

contact an emergency response team;

transmit the image to an image receiving device; and

send a pager signal to a pager.

5. The system of claim 1, wherein the server is further to:

transmit the image to an image receiving device; and

send a pager signal to a pager.

6. The system of claim 1, further comprising:

the control unit to:

generate the code having the indicator bits, the indicator bits having information indicative of the type of response needed;

REFERENCE PAGE 17

associate the code with the image; and

transmit the image having the code.

7. The system of claim 1, further comprises a transmitter to receive the image from the control unit and to transmit the image to the server.

8. A method, comprising:

detecting a triggered sensor from at least one sensor coupled with an object;

turning an imaging device coupled with the object in the direction of the triggered sensor in response to a signal from the triggered sensor;

activating the imaging device to capture an image and

determining one of the following: a first situation having an emergency situation, a second situation having a security situation, and a third situation having a failsafe situation.

9. The method of claim 8, wherein the emergency situation comprises an emergency response, the security situation comprises a security response, and the failsafe situation comprises a failsafe response.

10. The method of claim 9, further comprising:

transmitting an emergency message in accordance with the emergency response;

transmitting a security message in accordance with the security response, and

transmitting a failsafe message in accordance with the failsafe response.

11. The method of claim 9, further comprises generating a code in accordance with the emergency situation, the security situation, and the failsafe situation, the code having indicator bits indicating the corresponding situation.

12. The method of claim 9, wherein the emergency response comprising:

contacting an emergency response team; transmitting the image to an image receiving device; and

sending a pager signal to a pager.

13. The method of claim 9, wherein the security response comprising:

contacting an emergency response team;

transmitting the image to an image receiving device; and

sending a pager signal to a pager.

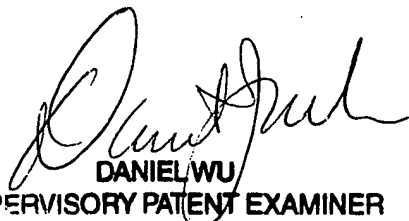
14. The method of claim 9, wherein the failsafe response comprising:

Notice of Abandonment	Application No.	Applicant(s)	
	10/693,385	PARKER, DIONNA O.	
	Examiner	Art Unit	
	Son M. Tang	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on 08 September 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


DANIEL WU
 SUPERVISORY PATENT EXAMINER
 3/20/06

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DIONNA O. PARKER
1021-31ST ST.
NEWPORT NEWS VA 23605

COPY MAILED

MAY 31 2006

OFFICE OF PETITIONS

In re Application of :
Parker :
Application No. 10/693,385 : ON PETITION
Filed: October 27, 2003 :
Attorney Docket No.: n/a :

This is a decision on the communications filed April 20, and May 8, 2006, and two communications dated May 2, 2006 addressed to the Commissioner of Patents, which collectively are being treated as (1) a petition to withdraw the holding of abandonment, and (2) a request for information about reviving an abandoned application.

The petition to withdraw the holding of abandonment is **dismissed**.

The request for information on revival is answered in more detail below.

With respect to withdrawal of the holding of abandonment:

This application became abandoned for failure to properly reply within the meaning of 37 CFR 1.111 and 35 U.S.C. § 133 to the non final Office action of September 8, 2005, which set a shortened statutory period for reply of three months. As a reply was not filed, and no extensions of time were obtained, this application became abandoned at midnight on December 8, 2005. A Notice of Abandonment was mailed March 24, 2006.

Petitioner requests that the holding of abandonment be withdrawn in that, upon her receipt of the Office action of September 8, 2005, she communicated with the examiner to get clarification of the action summary but was thwarted in that she was unable to understand the examiner in charge of this application. She thereupon contacted a Mr. Andrew James Sr, known to petitioner as a registered practitioner and also for his work on the Inventor's Assistance Center help desk, who, however, did not further communicate with applicant.

While the entire record has been carefully considered, the record fails to provide an adequate basis for withdrawing the holding of abandonment. The applicable statute reads as follows:

35 U.S.C. § 133. Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

The record shows that the Office action of September 8, 2005 was mailed to applicant at the correspondence address of record specified by applicant. The record further shows that applicant admits having received the Office action, which informed applicant on the summary

REF.
PG. 20

page that a reply was to be filed within the 3 month shortened period that began September 8, 2005, or the case would be regarded as abandoned. The Office action indicated that extensions of time under 37 CFR 1.136(a) were available up to a maximum extendable period of 6 months. The Office action contained a written explanation of the examiner's findings that was grammatical and reasonably informative. It is also noted that the statute clearly permits the USPTO to set a shortened statutory period of less than 6 months to reply to any Office action, as was done here.

Since petitioner admits, and in any event the record shows, that no reply was filed within the time period set, there can be no doubt that this application is abandoned for failure to prosecute, as expressly set forth in the statute. That is, abandonment is automatic under the law if a reply is not filed within the time period originally set or as extended. Since abandonment is automatic under the circumstances of this case, the USPTO simply has no discretion to hold that this case is not abandoned, or withdraw the holding of abandonment, regardless of any allegedly extenuating circumstances that applicant puts forward.

While these circumstances might be relevant to a petition to revive, they have no bearing on, and cannot overcome, the fact that this application became abandoned because no reply was filed. An applicant who does not appoint a registered practitioner to prosecute his or her application is responsible for personally knowing all aspects of the prosecution of his or her application, and is responsible for complying with all of the patent laws, regulations and procedures, and assumes the risk and consequences of not knowing, or complying, with the patent laws, regulations, and procedures before the USPTO. Petitioner directed that the mail from the USPTO was to come to her address, and since she did not appoint a registered practitioner to prosecute this case on her behalf, she assumed the responsibility for replying.

General Information

The comments about petitioner trying to contact a Mr. Andrew James Sr. are noted. Petitioner is advised that Mr. James, Sr is a retired, *former* USPTO employee, who is also a registered patent agent. Mr. James, Sr. does **not** now and did not at the time of the matters referred to in the petition work for the USPTO; rather he works for a private contractor who has contracted with the USPTO to supply non-USPTO personnel to answer the telephones at the USPTO Inventor's Assistance Center. Neither petitioner nor any other person may contact or initiate a contact with a registered practitioner through the USPTO telephones or by any other USPTO communication media; such is a separate transaction between the party and the registered representative that must be kept totally distinct from any involvement with the USPTO. Mr. Andrew James Jr. is a current USPTO employee but one who has no relationship with this application.

Petitioner may be unaware that personnel employed by the USPTO are prohibited from aiding petitioner or any other person in the prosecution of an application. See 37 CFR 11.10 (d) ("An employee of the Office may not prosecute or aid in any manner in the prosecution of any patent application before the Office.") While it is unfortunate that petitioner had difficulty understanding the examiner, petitioner's attention is directed to the last page of the Office action which also suggested as a point of contact the examiner's supervisor, at the given telephone number.

The format and wording of the papers herein appear to be that of an inexperienced applicant. In further prosecution, the services of a registered attorney or agent are strongly recommended, especially in view of the complexities of the patent laws and regulations. As noted above, the USPTO cannot prosecute this application on behalf of petitioner; e.g., prepare a proper reply for applicant. Likewise, the USPTO cannot recommend the services of a particular attorney or agent to the exclusion of any other. Petitioner may wish to consult her local telephone directory or can obtain a listing of registered practitioners in her area by accessing the USPTO web site at: www.uspto.gov, and then click on "Patents;" and on that page under the caption "Resources;"



UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 18 2006

OFFICE OF ENROLLMENT AND DISCIPLINE

Ms. Dionna O. Parker
2-E Riverlands Drive
Newport News, VA 23605-3503

CERTIFIED MAIL 70060100000676325751
RETURN RECEIPT REQUESTED

PERSONAL AND CONFIDENTIAL

Re: Complaint against Andrew J. James, Sr.
OED File Number C2006-127

Dear Ms. Parker:

The Office of Enrollment and Discipline ("OED") received a grievance from you dated July 9, 2006 regarding Mr. Andrew J. James, Sr. We are considering the information that you sent to us.

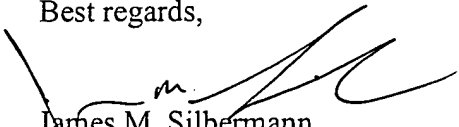
In order to further our investigation, please forward to OED copies of any communications between you and Mr. James regarding the patent application discussed in your grievance. Please provide us with any documents regarding your contacts between you and Mr. James regarding your correspondence with Mr. James around September 2005. Also, please provide us with copies of any canceled checks or other forms of payment that you made to Mr. James.

Please also provide us with more information regarding your dealings with Mr. James, particularly more information about how your professional relationship with Mr. James began and how and why Mr. James suggested that you direct correspondence to his Lanham, MD address. We would also appreciate you providing us with any additional information that you may have in regard to this grievance.

Please mail the requested information to the Office of Enrollment and Discipline, Mail Stop OED, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. Include file number C2006-127 in the heading of your transmittal letter.

We look forward to receiving the additional information from you.

Best regards,


James M. Silbermann
Staff Attorney
Office of Enrollment and Discipline



Customer Name: DIONNA PARKER
Customer Address: 2-E RIVERLANDS DR
NEWPORT NEWS, VA. 236050000

Master Number: 757-643-4672
Line Number: 757-643-4672

Description: NEW NUMBER

Account Number: 3030996
Line Service Period: 10/15/2005 to 11/14/2005

Monthly Services - continued

Service Period	Description	Qty	Amount
10/15/2005 - 11/14/2005	Repeat Dial Monthly *66	1	.00
10/15/2005 - 11/14/2005	3 Way Conference Calling	1	.00
10/15/2005 - 11/14/2005	900 Call Block	1	.00
10/15/2005 - 11/14/2005	Residential Line	1	.00
10/15/2005 - 11/14/2005	Flex Basic Package	1	24.95
10/15/2005 - 11/14/2005	LD Monthly Fee	1	.00
	Total		26.66

National Long Distance Detail

No.	Date	Time	Number Called	Location	State/Entry	Plan	Call Length	Amount	Date	Time	Number Called	Location	State/Entry	Plan	Call Length	Amount
1	09/18/05	11:58:24 AM	801-276-7554	MCCOMB	MS		42:00	4.20	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
2	09/18/05	12:10:11 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
3	09/18/05	12:18:48 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
4	09/18/05	14:38:48 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
5	09/18/05	08:24:59 AM	301-377-5784	HYATTSVL	MD		3:00	1.30	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
6	09/18/05	13:44:11 PM	301-377-5784	HYATTSVL	MD		3:00	1.30	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
7	09/18/05	22:50:31 PM	301-377-5784	HYATTSVL	MD		1:00	.10	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
8	09/18/05	11:58:24 AM	801-276-7554	MCCOMB	MS		42:00	4.20	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
9	09/18/05	12:10:11 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
10	09/18/05	12:18:48 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
11	09/18/05	14:38:48 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
12	09/18/05	08:24:59 AM	301-377-5784	HYATTSVL	MD		3:00	1.30	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
13	09/18/05	13:44:11 PM	301-377-5784	HYATTSVL	MD		3:00	1.30	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
14	09/18/05	22:50:31 PM	301-377-5784	HYATTSVL	MD		1:00	.10	09/18/05	12:05:58 PM	703-308-9910	ALEXANDRIA	VA		2:00	.20
15	10/13/05	11:58:24 AM	801-276-7554	MCCOMB	MS		42:00	4.20	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
16	10/13/05	12:10:11 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
17	10/13/05	12:18:48 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
18	10/13/05	14:38:48 PM	703-308-9910	ALEXANDRIA	VA		27:00	2.70	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
19	10/13/05	08:24:59 AM	301-377-5784	HYATTSVL	MD		3:00	1.30	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
20	10/13/05	13:44:11 PM	301-377-5784	HYATTSVL	MD		3:00	1.30	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
21	10/13/05	22:50:31 PM	301-377-5784	HYATTSVL	MD		1:00	.10	10/13/05	15:30:12 PM	301-793-1851	WISCONSIN	WI		1:00	.10
															Total	17.20

Line Total

Service Period	Description	Line Number	Amount
10/15/2005 - 11/14/2005	Line Total 757-643-4672	7576434672	43.86